



EXECUTIVE SUMMARY
Government of Guam Tax Credit Programs
OPA Report No. 15-06, October 2015

The Office of Public Accountability could not verify the completeness, reliability, and accuracy of the Government of Guam's (GovGuam) tax credits because the Department of Administration (DOA) did not provide evidence to support that the tax credits were recorded. This is the third audit of our three-part series on tax credits. Part A reported on the Tiyan Campus Tax Credit Program, which was issued in December 2014. Part B reported on the Layon Landfill Tax Credit Program, and was issued in May 2015.

GovGuam has 14 tax credit programs that authorized a minimum of \$105.8 million (M), of which ten programs were authorized \$91.1M and four programs did not have specified amounts. Of the \$105.8M, \$72.7M have purportedly been claimed as of December 2014.

Of the 14 tax credits programs, one is new, three are active, six are inactive, and four have exhausted their benefits. The audit team identified a \$476 thousand (K) variance in tax credits between data provided by the Guam Economic Development Authority (GEDA) and Department of Revenue and Taxation (DRT) for the Guam Raceway Park, which is down from the \$4.5M initial variance identified. Four programs, the Medically Indigent Program (MIP), Guam Registered Apprenticeship Program (GRAP), Local Commuter Air Services, and the Privately Owned Lands, did not specify the maximum tax credit amounts authorized.

Our previous tax credits audit, OPA Report No. 07-15, identified \$23.6M in authorized tax credits, of which \$6.3M was applied against tax revenues through March 2007. In that audit, we recommended the Governor and Legislature repeal the balances of on-going and unimplemented tax credit programs, but the Legislature and Administration did not take any action on this recommendation over the past seven years. By allowing those tax credit programs to continue and establishing additional programs, approximately \$82.3M in additional tax credits were authorized after September 2006.

\$105.8M Authorized for 14 Tax Credit Programs

Of the 14 tax credit programs, 11 were established for capital projects purposes, such as the Tiyan Campus, Layon Landfill, and the Guam Raceway Park. The remaining three tax credit programs were established for operational or other purposes, such as workforce skills enhancement and payment of past due medical bills for MIP participants.

GEDA administers the most with nine tax credit programs, DRT and DOA administer two programs each, and Department of Labor (DOL) administers one program. We found that GEDA and DRT were unable to provide the procedures and/or promulgated rules to implement the Public School Sports Facilities, GRAP, MIP, and Privately Owned Laws tax credits programs.

\$12.5M Claimed in GRAP Tax Credits

Unlike the other tax credits programs, which were primarily for capital improvements, the DOL-administered GRAP provided benefits to companies, which can claim up to 50% of eligible training costs. It is unknown whether the businesses would have incurred these training costs regardless of the tax credits. Approximately \$12.5M in tax credits were claimed under GRAP. This program was set to expire December 30, 2014, but Public Law 32-181 extended to December 30, 2019.

GovGuam Tax Credits Programs as of December 2014

	Authorized By	Enactment	Tax Credit Program	Status	Amount	Amount Claimed as of 12/2014	Remaining Balance	Administered by
1	PL 32-202	10/13/2014	DPR Tiyan Gymnasium	New	\$2,500,000	-	\$2,500,000	GEDA
2	PL 31-282	12/31/2012	Lada Estates Project	Benefits exhausted	\$2,915,000	\$2,915,000	-	GEDA
3	CV 0084-08	10/31/2012	Layon Landfill	Active	\$28,900,000	\$13,900,000	\$15,000,000	DOA
4	PL 30-37	6/25/2009	Tiyan Campus	Benefits exhausted	\$44,114,090	\$31,486,388	\$12,627,702	GEDA
5	PL 30-3; PL 31-233	3/13/2009	Southern Sports Complex	Inactive	\$200,000	-	\$200,000	GEDA
6	PL 28-142	7/18/2006	Guam Registered Apprenticeship Program	Active	Not Specified	\$12,498,453	Unknown	DOL
7	PL 27-130	12/22/2004	UOG Outdoor Multi-Purpose Sports Complex	Inactive	\$1,000,000	-	\$1,000,000	GEDA
8	PL 27-114	12/2/2004	Public School Gymnasium	Inactive	\$1,000,000	-	\$1,000,000	GEDA
9	PL 27-85	4/30/2004	Soccer Stadium	Benefits exhausted	\$1,000,000	\$1,000,000	-	GEDA
10	PL 26-166	1/5/2003	Paseo Baseball Stadium	Inactive	\$1,500,000	\$887,630	\$612,370	GEDA
11	PL 24-254	8/14/1998	Local Commuter Air Services	Inactive	Not Specified	Unknown	Unknown	DRT
12	P.L. 24-141; PL 27-85	2/22/1998	Guam Raceway Park	Benefits exhausted	\$8,000,000	\$7,824,970	\$175,030	GEDA
13	PL 28-150; PL 29-19	9/30/2006	Medically Indigent Program	Active	Not Specified	\$2,223,057	Unknown	DOA
14	PL 14-69	10/20/1977	Privately Owned Lands	Inactive	Not Specified	Unknown	Unknown	DRT
TOTAL					\$91,129,090	\$72,735,498		

Lack of Regular Review, Monitoring, and Reconciliation of MIP Tax Credit Program

Despite multiple requests for the MIP tax credit data from the DOA Director, Financial Manager, and Deputy Financial Manager, we were not provided any data. Therefore, there is no assurance that this program was regularly reviewed, monitored, reconciled, or recorded in GovGuam's financial records.

Conclusion

While we recognize the Legislature's authority to provide tax credits to achieve program goals, tax credits reduce availability of government cash to fund other programs. The government's spending priorities may be distorted because tax credit programs do not require appropriations or compete with the annual budget's spending priorities and, in effect, receive a higher funding priority than public education, safety, and health. It is not known whether these tax credit programs would have been funded through the regular appropriation process.

GovGuam incurred an operating deficit of \$61.9M during FY 2014, of which the \$9.8M in Layon Landfill tax credits claimed contributed to the deficit. As of September 2014, GovGuam's cumulative deficit is now at \$871.6M. We estimate potential savings of \$2.8M if six inactive tax credit programs are not implemented. We also made three recommendations to DRT, DOA, GEDA, DOL, and the Department of Public Health and Social Services.

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